



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
NORTHERN REGIONAL OFFICE

Douglas W. Domenech
Secretary of Natural Resources

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David K. Paylor
Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
COPT PROPERTY MANAGEMENT SERVICES, LLC
FOR
COPT DATA CENTER SOLUTIONS (COPT DC-6)
Registration No. 73683**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and COPT Property Management Services, LLC regarding the COPT Data Center Solutions (COPT DC-6) Facility, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law and the applicable permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "COPT" means COPT Property Management Services, LLC, a limited liability company authorized to do business in Virginia and its affiliates, partners, and subsidiaries. COPT is a "person" within the meaning of Va. Code § 10.1-1300.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" means the COPT Data Center Solutions (COPT DC-6) Data Center, located at 9651 Hornbaker Road, Manassas, which is located in Prince William County, Virginia. The Facility currently consists of thirteen (13) diesel driven engine-generator sets, including: G1, a MTU Model 20V4000G43 unit with a rated capacity of 2,500 ekW; G2 and G3, two MTU Model 16V4000 units each with a rated capacity of 2060 ekW; GE1, GE2, and GER1, three MTU Model 20V4000G43 units each with a rated capacity of 2,500 ekW; and GM1 and GMR, two MTU Model 16V4000 units each with a rated capacity of 2,050 ekW.
6. "Gensets" means emergency diesel driven engine-generator sets.
7. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
8. "NRO" means the Northern Regional Office of DEQ, located in Woodbridge, Virginia.
9. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
10. "Permit" means a minor New Source Review permit, Registration No.: 73683, to modify and operate, a corporate data center located in Manassas, Virginia, consisting of twenty-six (26) diesel driven engine-generator sets, issued under the Virginia Air Pollution Control Law and the Regulations on July 19, 2011, and as amended September 15, 2011, October 20, 2011, and March 13, 2012.
11. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
12. "Stack test" means initial stack test performed to demonstrate compliance with the NO_x (as NO₂) emission limits.
13. "Va. Code" means the Code of Virginia (1950), as amended.
14. "VAC" means the Virginia Administrative Code.
15. "VEE" means Visible Emissions Evaluation.
16. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. COPT owns and operates the Facility in Manassas, Virginia.
2. The Facility is the subject of the Permit issued under the Virginia Air Pollution Control Law and the Regulations.
3. On March 26, 2012, representatives of COPT sent a letter to DEQ stating that gensets GE1, GE2, GM1, GMR, and GER1 had completed commissioning during the previous two weeks. In the letter, COPT stated it was “mothballing” three engine-generators, gensets GE1, GE2, and GER1 and only operating the engines about twenty minutes per month to exercise the engines. COPT asked DEQ if the Department considered the “mothballed” engine-generators as units that had completed startup under the existing air permit dated March 13, 2012.
4. On April 19, 2012, DEQ responded stating that DEQ considered all the engines, including the “mothballed” gensets GE1, GE2, and GER1, as having completed startup. DEQ advised COPT that Permit Condition 18.iv required that stack testing be performed demonstrating compliance no later than 210 days after startup.
5. On September 25, 2012, COPT submitted to DEQ a stack test protocol for the stack testing of gensets.
6. On October 25, 2012, DEQ asked COPT to provide additional information about the proposed stack testing. DEQ requested the following information from COPT: (1) startup dates for each diesel generator and Rotary Power Unit (RPU) at the facility, (2) the date each emission unit will be stack tested and date each emission unit will be evaluated for visible emissions, and (3) the identification number (Reference Number) of each emission unit that will be tested.
7. On January 10, 2013, COPT responded stating that gensets GE1, GE2, GM1, GMR, and GER1, had completed startup on March 20, 2012.
8. Permit Condition 18.iv. requires that stack tests shall be performed, reported, and demonstrate compliance within sixty days after completion of the installation, but in no case later than 210 days after startup of each permitted engine generator set, or October 16, 2012.
9. On January 28, 2013, based on the review of Facility files and the violations described above, the Department issued a Notice of Violation (NOV).
10. On February 5, 2013, COPT submitted a revised draft protocol.
11. On February 7, 2013, COPT provided a response to the NOV stating that assuming that DEQ approves the revised stack test protocol submitted to DEQ on February 5, 2013, then the stack test will be conducted on March 11, 2013.

12. On February 26, 2013, representatives of COPT met with the Department to discuss the NOV and proposed stack testing.
13. On March 11, 2013, COPT informed DEQ that since the protocol had not been approved, the scheduled testing was postponed.
14. Based on the documentation submitted on January 10, 2013, and the February 26, 2013, meeting, the Board concludes that COPT has violated Permit Condition 18.iv, as described in paragraphs C(4) - C(10) above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders COPT, and COPT agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$6,727.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

COPT shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, COPT shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of COPT for good cause shown by COPT, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2)

seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, COPT admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. COPT consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order
5. COPT declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by COPT to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. COPT shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. COPT shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. COPT shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and COPT. Nevertheless, COPT agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after COPT has completed all of the requirements of the Order;
 - b. COPT petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to COPT .

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve COPT from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

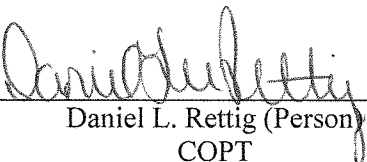
12. Any plans, reports, schedules or specifications attached hereto or submitted by COPT and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of COPT certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind COPT to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of COPT.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, COPT voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 6th day of May, 2013.

A handwritten signature in black ink, appearing to read "Thomas A. Faha", written over a horizontal line.

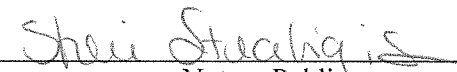
Thomas A. Faha, NRO Regional Director
Department of Environmental Quality

COPT voluntarily agrees to the issuance of this Order.

Date: 5/2/2013 By: , Manager, Corporate Operations and Safety
Daniel L. Rettig (Person) (Title)
COPT

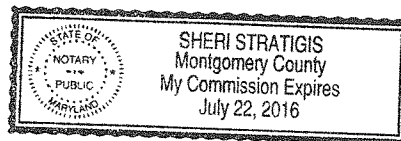
State of Maryland
County of MONTGOMERY

The foregoing document was signed and acknowledged before me this SECOND day of MAY, 2013,
by DANIEL L. RETTIG who is A MANAGER of COPT, on behalf of the Corporation.


Notary Public

Registration No. _____

My commission expires: July 22, 2016
Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. Testing

COPT shall:

- a. No later than May 10, 2013, submit to DEQ, an approvable initial stack test and VEE protocol.
- b. No later May 20, 2013, conduct a VEE and initial stack test on the gensets located at the Facility as required by the approved protocol per subsection a .
- c. No later than 60 days of completing the VEE and initial stack tests per subsection b, submit to DEQ a testing report for VEE and initial stack tests.

2. Certification of Documents and Reports

In accordance with 9 VAC 5-20-230(A), in all documents or reports, including, without limitation, the test/VEE protocol and report, submitted to DEQ pursuant to this Consent Order, COPT, shall by its officers, sign and certify under penalty of law that the information contained in such document or report is true, accurate, and not misleading by signing the following statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering and evaluating the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

3. DEQ Contact

Unless otherwise specified in this Order, COPT shall submit all requirements of Appendix A of this Order to:

Enforcement
Virginia Department of Environmental Quality
Northern Regional Office
13901 Crown Court
Woodbridge, VA 22193